IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 745 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 15/12/2004 in WP NO : 8051 OF 1998 on the file of the High Court.)

Between:

1 The APSRTC, rep. by its Managing Director,
Mushirabad, Hyderabad.
2 The Regional Manager, APSRTC, Mahaboobnagar.

..... APPELLANTS

AND

Sri P. Venkata Swamy, S/o P. Ramulu,
R/o Wanaparthy, Mahaboobnagar District.

.....RESPONDENT

Counsel for the Appellant:MR.P.VINAYAKA SWAMY (SC FOR APSRTC)

Counsel for the Respondent No.: MR.A.K.JAYAPRAKASH RAO

The Court made the following :

JUDGMENT: (Per Hon'ble Smt T. Meena Kumari,J)

-

-

This writ appeal is filed by the appellants aggrieved by the order dated 15-12-2004 in W.P.No.8051 of 1998 wherein the learned Single Judge directed the appellants to consider the case of the writ petitioner for appointment in the appellants-corporation in any suitable post, within a period of two months from the date of receipt of a copy of that order.

The appellants herein are the respondents in the writ petition. Originally, the writ petition was filed seeking a direction in the nature of writ of mandamus declaring the action of the 2nd respondent in not communicating the result of the medical examination to the writ petitioner and in not issuing the appointment letter having provisionally selected him to the post of conductor as illegal and arbitrary and to direct the 2nd respondent to appoint him as conductor or in any other suitable post. The case of the writ petitioner is that his father filed W.P.27201 of 1995 for appointment of his son i.e., writ petitioner herein in the 1st respondent-Corporation on compassionate grounds as he became crippled and the same was allowed on 18-7-1996 directing the respondents to consider the representation of his father. Consequent upon the said order, the petitioner had undergone medical examination on 22-12-1997, but no result has been communicated to him as to why he has not been appointed. Hence, he filed the above said writ petition.

Per contra, the respondent-corporation contended that after medical examination, the writ petitioner was found medically unfit for the post of the conductor due to defective vision and the same was communicated to him orally in person when he approached the respondents and he was advised to prefer an appeal before the medical board.

Considering the rival contentions, the learned Single Judge having observed that the act of passing orders and communicating the same orally by the 1st respondent-Corporation is unsustainable and such course by the authorities is highly deprecated and it is in violation of Article 14 of the Constitution of India, allowed the writ petition directing the 2nd respondent to consider the case of the petitioner for appointment in the 1st respondent-Corporation in any suitable post, within a period of two months from the date of receipt of a copy of that order. Having aggrieved by the same, the present writ appeal is preferred by the respondents-appellants.

Heard the learned Standing Counsel for the appellants as well as the learned Counsel for the respondent.

The learned Standing Counsel for the appellants contends that there is no scheme of compassionate appointment to the heirs of retired employees on medical grounds and it was declared as unconstitutional. He further contends that after medical examination, the respondent herein was found medically unfit for the post of the conductor due to defective vision and that there is a recourse open to the writ petitioner to prefer an appeal before the Medical Board and therefore, the order of the learned Single Judge is liable to be set aside.

On the other hand, the learned Counsel for the respondent-writ petitioner reiterated the contentions raised before the learned Single Judge.

On a perusal of the record, it is apparent that the writ petitioner had undergone medical examination in 1997. The appellants-corporation has failed to place any material before this Court in support of its contention that the writ petitioner has defective vision. Even it is assumed for a moment that the petitioner has defective vision, he can be provided with any other suitable post, but he cannot be denied totally to provide any alternative post on compassionate grounds, as he being a graduate. Therefore, we found that the action of the appellants-Corporation is not in

conformity with the law laid down by the Supreme Court stating that a person, who is medically unfit to do certain posts, has to be accommodated in any suitable post.

Under the above circumstances, we have no hesitation to confirm the order passed by the learned Single Judge. Accordingly, the Writ Appeal is dismissed confirming the order dated 15-12-2004 in W.P.No.8051 of 1998 and the 2nd appellant-corporation is directed to appoint the writ petitioner in any suitable post according to his educational qualifications, within a period of three months from the date of receipt of a copy of this order. No order as to costs.

_____

T.MEENA KUMARI , J

_____

P.LAKSHMANA REDDY,J

Dated:14-06-2005

Sj/Nn

To

1. The Managing Director, A.P.S.R.T.C., Musheerabad, Hyderabad.

2. The Regional Manager, APSRTC, Mahabubnagar

3. Two CD copies.